

such action as OFHEO may deem appropriate.

(d) A determination under this subpart to comply or not to comply with any demand shall not constitute an assertion or waiver of privilege, lack of relevance, technical deficiencies or any other ground for noncompliance. OFHEO reserves the right to oppose any demand on any legal ground independent of its determination under this subpart.

**§ 1710.40 Responses to demands served on non-OFHEO employees or entities for OFHEO documents.**

(a) OFHEO reports of examinations, or any documents related thereto, are the property of OFHEO and are not to be disclosed to any person without the Director's prior written consent.

(b) If any person who has possession of an OFHEO report of examination, or any documents related thereto, is served with a demand in a legal proceeding directing that person to produce such OFHEO documents or to testify with respect thereto, such person shall immediately notify OFHEO's General Counsel of such service, of the testimony and described documents in the demand, and of all relevant facts. Such person shall also object to the production of such documents or information contained therein on the basis that the documents are the property of OFHEO and cannot be released without OFHEO's consent and that their production must be sought from OFHEO following the procedures set forth in § 1710.33, § 1710.34 (b) and (c), and § 1710.37(b) of this part.

**§ 1710.41 Orders and agreements available to the public.**

(a) *General.* OFHEO shall make the following documents available to the public:

(1) Any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) Any order that is issued with respect to any administrative enforcement proceeding initiated by the Director that has become final in accordance with 12 U.S.C. 4633 and 4634; and

(3) Any modification to or termination of any final order made public pursuant to this section.

(4) Transcripts of any public enforcement hearing on the record with respect to any action of the Director or notice of charges issued by the Director shall be available to the public.

(b) *Delay of public disclosure under exceptional circumstances.* If the Director makes a determination in writing that the public disclosure of any final order pursuant to paragraph (a) of this section would seriously threaten the financial health or security of the Enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(c) *Documents filed under seal in public enforcement hearings.* The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(d) *Retention of documents.* The Director shall keep and maintain a record, for not less than six years, of all documents described in paragraph (a) of this section and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceedings initiated by the Director under 12 U.S.C. 4631-4641.

(e) *Disclosure to Congress.* This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

**Subpart E—Rules and Procedures for Service Upon the Office of Federal Housing Enterprise Oversight**

**§ 1710.51 Service of process.**

(a) Except as otherwise provided by OFHEO regulations, the Federal Rules of Civil Procedure, or order of a court with jurisdiction over OFHEO, any legal process upon OFHEO, including a legal process served on OFHEO demanding access to its records under the FOIA, shall be duly issued and served upon the General Counsel and any OFHEO personnel named in the caption of the documents.

(b) Service of process upon the General Counsel to OFHEO may be effected by personally delivering a copy of the documents to the General Counsel or by sending a copy of the documents to the General Counsel by registered or certified mail, postage prepaid, to the Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552.

Dated: May 5, 1995.

**Aida Alvarez,**

*Director, Office of Federal Housing Enterprise Oversight.*

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**12 CFR Chapter XVII**

**RIN 2550-AA02**

**Risk-Based Capital**

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Extension of Public Comment Period for Advance Notice of Proposed Rulemaking.

**SUMMARY:** On February 8, 1995 (60 FR 7468), the Office of Federal Housing Enterprise Oversight (OFHEO) published an advance notice of proposed rulemaking (ANPR) entitled "Risk-Based Capital." This ANPR is a significant step in the process of developing a regulation to establish risk-based capital standards for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. To ensure that the public has ample opportunity to participate in the rulemaking process by commenting on a variety of technical and policy issues involved in the development of the risk-based regulation and the risk-based capital stress test, today's notice extends the public comment period from May 9, 1995 through June 8, 1995.

**DATES:** The comment period is extended until June 8, 1995.

**ADDRESSES:** Send written comments to Anne E. Dewey, General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552.

**FOR FURTHER INFORMATION CONTACT:** David J. Pearl, Director, Research, Analysis and Capital Standards; or Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414-3800 (not a toll-free number).

Dated: May 8, 1995.

**Aida Alvarez,**

*Director, Office of Federal Housing Enterprise Oversight.*

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